



STATE OF WASHINGTON
OIL SPILL ADVISORY COUNCIL

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Draft Minutes

John L. O'Brien Building
House Hearing Room B
504 15th Ave SW
Olympia, WA 98504

June 16, 2006

Members Present: Chairman Mike Cooper, Brett Bishop, Chad Bowechop (Alternate), Maura Brueger, Jim Davis, Mike Doherty, Stuart Downer, Nick Jones, Gerald Joyce, Michael Moore, Lee Roussel, John Schumacher, Jeff Shaw, Bruce Wishert.

Members Absent: Phil Bannan, Harlan James, Kevin Ranker, David Sones, Gregory Whittaker, Phil Winberry

Staff Present: Jacqui Brown Miller, Dorine Coleman

Chairman Cooper called the meeting to order at 9:00 a.m.

Finalization of Technical Advisory Committee (TAC) Reports

Captain Micheal Moore (Moore) delivered a report to the Council of the work done by the Capacity TAC to improve its scope of work per the Council's recommendations at the May meeting. Moore stated that the new report includes graphs, which, among other things, match skill sets to equipment, and allow the estimation of response times based on existing inventory. Moore also stated that the TAC recommends consultant work, which will focus on existing maximum response capacity, both in-region equipment, and that which can be cascaded from out-of-region. However, the report does not identify what equipment already exists. Gerald Joyce (Joyce) stated that the improvements make the report more readable and user-friendly. The report also recommends the establishment of a panel of stakeholders to assess inventory results, identify areas where additional response capabilities would be effective, including a list of specific recommendations.

Jacqui Brown Miller (Brown Miller) delivered a report to the Council of the work done by the Federal Funding TAC to improve its scope of work per the Council's

1 recommendations at the May meeting. Brown Miller stated that the Federal Funding
2 TAC has been charged with three tasks:

- 3 • Identify and differentiate between federal spill prevention activities that are
4 required or authorized under law, but are not being effectively performed.
- 5 • Identify spill prevention activities being performed by the State either under an
6 agreement with the federal government, or on its own volition, which the federal
7 government could be, but is not, undertaking itself, and which the federal
8 government does not provide funds to Washington to perform.
- 9 • Identify spill prevention gaps that exist as a result of lack of funding or as a result
10 of United States v. Locke, et al, 529 U.S. 89 (2000).

11 Maura Brueger (Brueger) stated that the TAC received help and information from the
12 Congressional delegation in Congressman Jay Inslee's office. Brueger stated that the
13 focus needs to be on whether the goals of federal and/or state programs are getting
14 accomplished. Bruce Wishart (Wishart) suggested the establishment of performance
15 standards.

16 Chairman Cooper stated that references to the Tribes and how they relate to the
17 state and federal governments must be included in the Council's final draft report.
18 Chairman Cooper stated that the Council would utilize more of a subcommittee structure,
19 with more subcommittee meetings and fewer full Council meetings. He informed the
20 Council that Tribal Representative David Sones has resigned from the Council, and
21 recommended the appointment of Chad Bowechop (Bowechop) as his replacement.
22 Chairman Cooper also stated that the Northwest Indian Fisheries Commission (NWIFC)
23 would help with encouraging more tribal participation in the Council.

24 There was consensus by the Council to accept the Capacity and Federal Funding
25 TAC reports as presented for inclusion in the Council's final draft report.

26 27 **Future of the Council and Funding**

28 Rob Frazier (Frazier), PE, Environmental International Ltd delivered the report to
29 the Council. He stated that the draft report includes a brief introduction, breaks down
30 priorities, goals and staffing requirements, describes programs and projects, and contains
31 a budget estimate based on a staff of six and an annual budget of \$1.2 million. He stated
32 that he worked with Aaron Butcher from the Office of Financial Management to devise
33 the proposed budget estimate. Jim Davis (Davis) stated that some clarification between
34 priorities and goals is needed. Joyce stated that a gap analysis is needed to determine if
35 existing rules and regulations are being followed. Nick Jones (Jones) stated a concern
36 about the lack of a recommendation on recovery.

37 John Schumacher (Schumacher) stated that individuals with expertise in oil spill
38 drills should be on the Council in order for the Council to make an educated
39 recommendation about improving spill drills. He recommended deleting the last sentence
40 of section 2.1.2- Participation in Oil Spill Drills and Spill Events from the draft report.
41 Stuart Downer (Downer), Jones, and Brueger agreed with Schumacher's
42 recommendation.

43 Davis stated that the goals should come first, and that a review of the
44 recommendations of the model programs listed in the draft is needed. Bowechop
45 recommended integrating the purposes through a tribal vehicle. He stated that this is a

1 long term goal and everybody would be better served if tribal governments are clearly
2 incorporated into the report.

3 Chairman Cooper thanked Bowechop for his remarks and recommended that the
4 Council work with a liaison from the NWIFC. Chairman Cooper also reminded the
5 Council that it is a citizen's advisory group, and was not appointed to be a panel of
6 experts. Frazier stated that the Council would need some training on how Unified
7 Command works.

8 Mike Doherty (Doherty) stated that the last sentence of section 2.1.2 should read
9 as follows:

10 "The Council's involvement in the oil spill response process should
11 improve the Unified Command's ability to conduct a[n] *[effective]* and
12 more coordinated response to a given incident."

13 Doherty stated that he does not think the sentence should be taken out, and that it should
14 be what the Council is all about.

15 Jones recommended comprising wording to illuminate education.

16 Chairman Cooper stated that Frazier will rewrite the entire paragraph, and stated
17 that it is unlikely that an individual on the Council will have the ability to make the
18 Unified Command work more smoothly.

19 Jeff Shaw (Shaw) stated that training cannot come from a meeting or a drill. He
20 stated that members will not be on the Council forever and that there should be a pre-
21 conceived progress plan for successors.

22 Moore stated that he agrees with Jones about the importance of education, and that there
23 should be a baseline of Council knowledge before making recommendations.

24 Wishart stated that the Tug TAC spent a lot of time on education by reviewing a
25 plethora of studies before formulating a recommendation. He stated that education
26 comes out of the committee process.

27 Chairman Cooper stated that the Council would utilize a subcommittee structure,
28 and stated that the report recommends the establishment of the following four standing
29 committees:

- 30 • Prevention
- 31 • Preparedness and Response
- 32 • Plan and Regulation
- 33 • Outreach

34 He stated that the TACs would continue to have meetings, and will have individuals who
35 are not Council members but who have the expertise to make recommendations. He
36 recommended that the full Council only meet four times a year, allowing more
37 subcommittee meetings. He stated that the TACs would be project-based committees.

38 Jones proposed the establishment of a standing Recovery Committee. He stated
39 that recovery is a neglected piece of oil spill response and needs to have its own
40 committee.

41 Moore expressed concern about how the workload would be divided.

42 Schumacher stated that recovery is part of response, and stated that recovery
43 efforts take much longer than response efforts. He suggested that recovery be an aim of
44 response.

45 Chairman Cooper stated that Frazier would devise a committee charged with
46 meeting the concerns just raised.

1 There was consensus by the Council that the draft report make a recommendation
2 establishing the following subcommittees:

- 3 • Prevention
- 4 • Preparedness and Response
- 5 • Outreach and Education

6 Chairman Cooper stated that the Council is one of the largest in the State of
7 Washington, with the smallest staff and without an Executive Director. He stated that the
8 Council would still have a Chair, but suggested that the Council have the discretion in
9 choosing an Executive Director.

10 Downer expressed concern about the role of the Executive Director. He stated
11 that the Council should take care that the individual chosen oversees the daily operations
12 of the Council, but not to the point where the individual “becomes” the Council.

13 Joyce stated that if the Council is going to be sustainable, the suggested structure
14 should be adopted with the proviso that the Council have a strong Chair.

15 Chairman Cooper stated a clarification in the report is needed and should state
16 that the Executive Director will function under the direction of the Chair and Council.

17 Doherty questioned whether this proposal is creating a redundancy in the system
18 since the Department of Ecology (DOE) already has a spills program. Chairman Cooper
19 stated that the Legislature did not provide the DOE or the Department of Natural
20 Resources (DNR) the staffing to carry out the charges of the Council. He stated that it
21 was the Legislature’s intent to have an independent third party, i.e., the Council look at
22 other agencies and make evaluations about Washington’s overall spill response programs.

23 Wishart stated that having an independent staff is an important part of the
24 enabling legislation.

25 Chairman Cooper stated that the staffing structure will determine the need to hire
26 consultants. He stated that there are other boards and commissions with smaller charges
27 than the Council’s that are doing work with the help of an Executive Director and two to
28 three Full Time Employees (FTE). Frazier stated that the report’s recommendation is on
29 the “lean side,” and that most boards have more staff than what the Council is
30 recommending.

31 Brueger agreed with Chairman Cooper’s recommendation regarding the
32 interaction between the Executive Director and the Council Chair.

33 Chairman Cooper stated that the draft include a list of agencies with which the
34 Council should have regular contact. He directed the Council to send recommendations
35 for adding groups not already mentioned to Frazier. There was consensus by the Council
36 that the estimated cost for overhead and office space needs to be re-calculated.

37 38 **Revue Streams**

39 Chairman Cooper stated that the Council must consider the political and legal
40 realities of each of the remaining funding options. There was consensus by the Council
41 that funding option number 13 relating to the pilotage fee surcharge be removed from the
42 list of possible revenue streams.

43 Shaw requested that the Council reconsider the funding option relating to ferry
44 fees. Jones reiterated the Island based argument opposing ferry fees, and mentioned that
45 the Council should consider a revenue source that can achieve fiscal and policy goals

1 simultaneously. There was consensus by the Council that the ferry tax would not be
2 considered as a funding option.

3 Chairman Cooper stated that the funding options relating to the US Navy and
4 Coast Guard should not be considered, as they are not new revenue sources. Chairman
5 Cooper also mentioned that the funding option related to taxing airplane fuel should be
6 eliminated, as existing aircraft fuel taxes are used for airport improvements. There was
7 consensus by the Council to remove the Navy, Coast Guard and airplane fuel tax funding
8 options from consideration.

9 There was consensus by the Council to combine the port moorage and marina
10 moorage funding options, and to conduct further research on the cruise line head
11 passenger tax.

12 **Department of Ecology's Proposed Rules:**

13 **1. Contingency Planning Rule**

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15 Chairman Cooper welcomed comments for recommended changes from the
16 Council on the proposed contingency planning rule, and mentioned that Tom Copeland
17 (Copeland), a Capacity TAC member provided the Council with information on orphan
18 spills.

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20 Moore stated that the rules have been in place since 2002 and this is the first cost-
21 benefit analysis ever mentioned. He stated that that comments are due on July 26, 2006
22 and everyone at the meeting would be submitting comments through their stakeholder
23 groups, and that it is a little premature to submit comments now without having time to
24 digest the information.

25 Davis stated that the Grey's Harbor area plan should recommend the stationing of
26 boom there to deal with the open ocean. He stated that repeating stakeholder concerns
27 would be relatively meaningless, and recommended establishing a subcommittee that can
28 come up with a recommendation for this topic.

29 Downer stated that it would be difficult for the Council to reach consensus on bad
30 rules. He stated that the contingency planning rule is an incremental improvement, but
31 the transfer rule is only an improvement on containment and not on prevention.

32 Wishert stated that there are significant improvements and enhancements that can
33 be identified by the Council. It would be worthwhile for DOE to know what those are.
34 He recommended that DOE conduct orphan spill drills, and stated that prevention needs
35 to be strengthened in the transfer rule.

36 Brueger stated that the proposed rules are a step forward for the State and DOE,
37 but the timing is terrible. She stated that the Council needs to consider the role of the
38 State of Washington under these recommended rules.

39 Doherty stated that the Council should welcome incremental improvements,
40 which is how most systems improve. He proposed adopting Copeland's
41 recommendations.

42 **2. Fuel Transfer Rule**

43 Chairman Cooper stated that staff would draft a letter on behalf of the Council
44 and directed the Council to raise issues by communicating them to staff. Chairman
45

1 Cooper welcomed comments for recommended changes from the Council on the
2 proposed fuel transfer rule.

3 Downer stated that the DOE struck out language that was better than the new
4 language they put in the current proposed rule.

5 Joyce stated that the latest version seems to be very-watered down from earlier
6 drafts and needs to be re-strengthened.

7 Moore stated that oil transfer monitoring is a prevention activity, and if targeted
8 correctly is pretty effective.

9 Lee stated that the same wind and wave numbers exist for open harbor and dock
10 transfers. He stated that the DOE should study whether open water transfers should have
11 lower numbers to allow for safe transfers.

12 Shaw stated that there should not be a letter from the Council, and that each
13 stakeholder should submit their own letters. Schumacher agreed with this proposal.

14 Chairman Cooper stated that staff would draft a very general letter about
15 containment and issues about prevention, since there is not clear consensus on these
16 rules.

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18 **Public Comment**

19 Copeland, former Alaska fisherman and Capacity TAC member stated that there
20 are very clear ties between orphan spill drills and the DOE's contingency plan rules. He
21 stated that unannounced spill drills scheduled for orphan spills were voted on and
22 approved by the Puget Sound Partnership and Early Action Task Force to examine the
23 effectiveness of Contingency plan rules. He stated that they were approved by half the
24 members of this board and were finally implemented two years later.

25 Copeland stated that he is concerned that members of the Early Action Task Force
26 do not need to follow through with their recommendations, which he referred to as
27 complacency. He stated that the Council is charged with actively seeking public
28 comment, and only allowing three minutes at the end of the meeting for comment is not
29 "actively seeking public comment."
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